

§ 32C-1-119. Acceptance of and reliance upon power of attorney.

(a) For purposes of this section and G.S. 32C-1-120, the term "acknowledged" means purportedly verified before a notary public or other individual authorized to take acknowledgements.

(b) A person that in good faith accepts an acknowledged power of attorney without actual knowledge that the signature is not genuine may rely upon the presumption under G.S. 32C-1-105 that the signature is genuine.

(c) A person that in good faith accepts a power of attorney without actual knowledge that the power of attorney is void, invalid, or terminated, that the purported agent's authority is void, invalid, or terminated, or that the agent is exceeding or improperly exercising the agent's authority (i) may rely upon the power of attorney as if the power of attorney were genuine, valid and still in effect, the agent's authority were genuine, valid and still in effect, and the agent had not exceeded and had properly exercised the authority and (ii) shall not be held responsible for any breach of fiduciary duty by the agent, including any breach of loyalty, any act of self-dealing, or any misapplication of money or other property paid or transferred as directed by the agent. This subsection applies without regard to whether or not the person dealing with the agent demands or receives a certification under subsection (d) of this section.

(d) A person that is asked to accept a power of attorney may request, and rely upon, without further investigation, any one or more of the following:

- (1) A certification executed by the agent to the effect that the agent did not have actual knowledge at the time of the presentation of the power of attorney to the person (i) that the power of attorney is void, invalid, or terminated; (ii) that the agent's authority is void, invalid, or terminated; or (iii) of facts that would cause the agent to question the authenticity or validity of the power of attorney. A certification meeting the requirements of this subdivision shall be sufficient proof to the requesting person that (i) the power of attorney is authentic and valid and has not been terminated, (ii) the agent's authority is valid and has not been terminated, and (iii) other factual matters stated in the certification regarding the principal, agent, or power of attorney are true. If the exercise of the power of attorney requires execution and delivery of an instrument that is recordable, the person accepting the certification may require that the certification be prepared and executed so as to be recordable. A certification in the form described in G.S. 32C-3-302 shall be deemed to meet the requirements of this subsection but shall not be the sole means of meeting those requirements.
- (2) An English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English.
- (3) An opinion of counsel as to any matter of law concerning the power of attorney if the person making the request provides in a writing or other record the reason for the request.

(e) An English translation or an opinion of counsel requested under this section must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.

(f) For purposes of this section and G.S. 32C-1-120, a person that conducts activities through employees is without actual knowledge of a fact relating to a power of attorney, a principal, or an agent if the employee conducting the transaction involving the power of attorney is without actual knowledge of the fact.

(g) This section does not affect any provision in a power of attorney for its termination by expiration of time or occurrence of an event other than an express revocation or a change in the principal's capacity. (2017-153, s. 1.)